



**US Army**  
**Corps of Engineers**  
Louisville District ®

# Public Notice

Public Notice No.  
LRL-2016-989-mdh

Open Date:  
30 Nov 2016

Close Date:  
30 Dec 2016

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Mr. Michael Hasty, CELRL-RDN, Rm 752  
P.O. Box 59  
Louisville, Kentucky 40201-0059

Phone: 502-315-6676

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act:

**APPLICANT:** Al. Neyer  
302 West Third Street  
Cincinnati, OH 45275

**AGENT:** Kilbane Environmental, Inc.  
6236A Centre Park Drive  
Cincinnati, OH 45069

**LOCATION:** Streams and wetlands within a 135-acre parcel located due west of the Interstate 275 and Interstate 75 junction in Erlanger, Kenton County, Kentucky.

Latitude: 39°-02'-08" (N)  
Longitude: 84°-36'-33" (W)  
7.5 Minute Quad: COVINGTON, KENTUCKY

**PURPOSE:** Commercial development.

**DESCRIPTION OF WORK:** The applicant proposes to construct a commercial development consisting of three (3) buildings with associated access roads, utilities, parking areas and stormwater detention (see attached *Figures 1-4*). To facilitate this new development, the applicant proposes to impact approximately 4,356 linear feet of ten (10) stream channels and 1.021 acres of five (5) wetlands (see *Tables 1 and 2* below for itemized impacts to "waters of the U.S.") Under the proposal, these waters would be filled with 124 cubic yards of clean earthen fill excavated on-site.

***Table 1: Proposed Wetland Impacts***

Water ID	Type	Impact/Activity	Impacts	
			Length (ft)	Area (ac)
Wetland A	Emergent	Fill/Structure	N/A	0.047
Wetland B	Emergent	Fill/Structure	N/A	0.040
Wetland C	Emergent	Fill/Structure	N/A	0.617
Wetland D	Emergent	Fill/Roadway	N/A	0.135
Wetland E	Emergent	Fill/Structure	N/A	0.182
<b>Total Proposed Wetland Impacts:</b>				<b>1.021</b>

**Table 2: Proposed Stream Impacts**

Water ID	Type	RBP Score/Quality	Impact/Activity	Impacts	
				Length (lf)	Area (ac)
Stream 1	Ephemeral	Poor	Fill/Structure	205	0.009
Stream 2	Ephemeral	Poor	Fill/Structure	331	0.023
Stream 3	Ephemeral	Poor	Fill/Structure	794	0.047
Stream 4	Ephemeral	Poor	Fill/Structure	389	0.028
Stream 5	Ephemeral	Poor	Fill/Structure	752	0.087
Stream 6	Ephemeral	Poor	Fill/Structure	278	0.019
Stream 7	Ephemeral	Poor	Fill/Structure	381	0.022
Stream 11	Ephemeral	Poor	Fill/Structure	549	0.038
Stream 12	Ephemeral	Poor	Fill/Structure	218	0.013
Stream 13	Ephemeral	Poor	Fill/Structure	459	0.041
<b>Total Proposed Stream Impacts:</b>				<b>4,356</b>	<b>0.327</b>

**AVOIDANCE AND MINIMIZATION MEASURES:** The applicant did consider design alternatives within the 135-acre parcel to reduce impacts. Specifically, Streams 8, 9, 10 and 14 (a total of 3,280 linear feet), as well as their associated riparian buffer zones, were avoided. Further minimization of impacts was not considered practicable due to the limited overall size of the subject parcel and the wide dispersion of waters within it.

**MITIGATION MEASURES:** The applicant proposes to provide compensation for the unavoidable wetland impacts associated with this project through the purchase of 0.20 wetland credits from an approved wetland mitigation bank within the service area of the proposed project. With regard to unavoidable stream impacts, the applicant proposes to provide compensation through the purchase of 305 Adjusted Mitigation Units (AMUs) from the Northern Kentucky University's In-Lieu Fee Stream and Wetland Restoration Program. In addition, the applicant proposes to put the 3,280 linear feet of unimpacted stream channels (Streams 8, 9, 10 and 14), as well as their associated riparian buffer zones, into a conservation easement.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

**REVIEW PROCEDURES:** A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant must apply for State certification from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

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Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 C.F.R. Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of

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Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to: Mr. Michael Hasty, CELRL-RDN at the address noted above and should refer to the Public Notice Number LRL-2016-989-mdh.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2016-989-mdh.

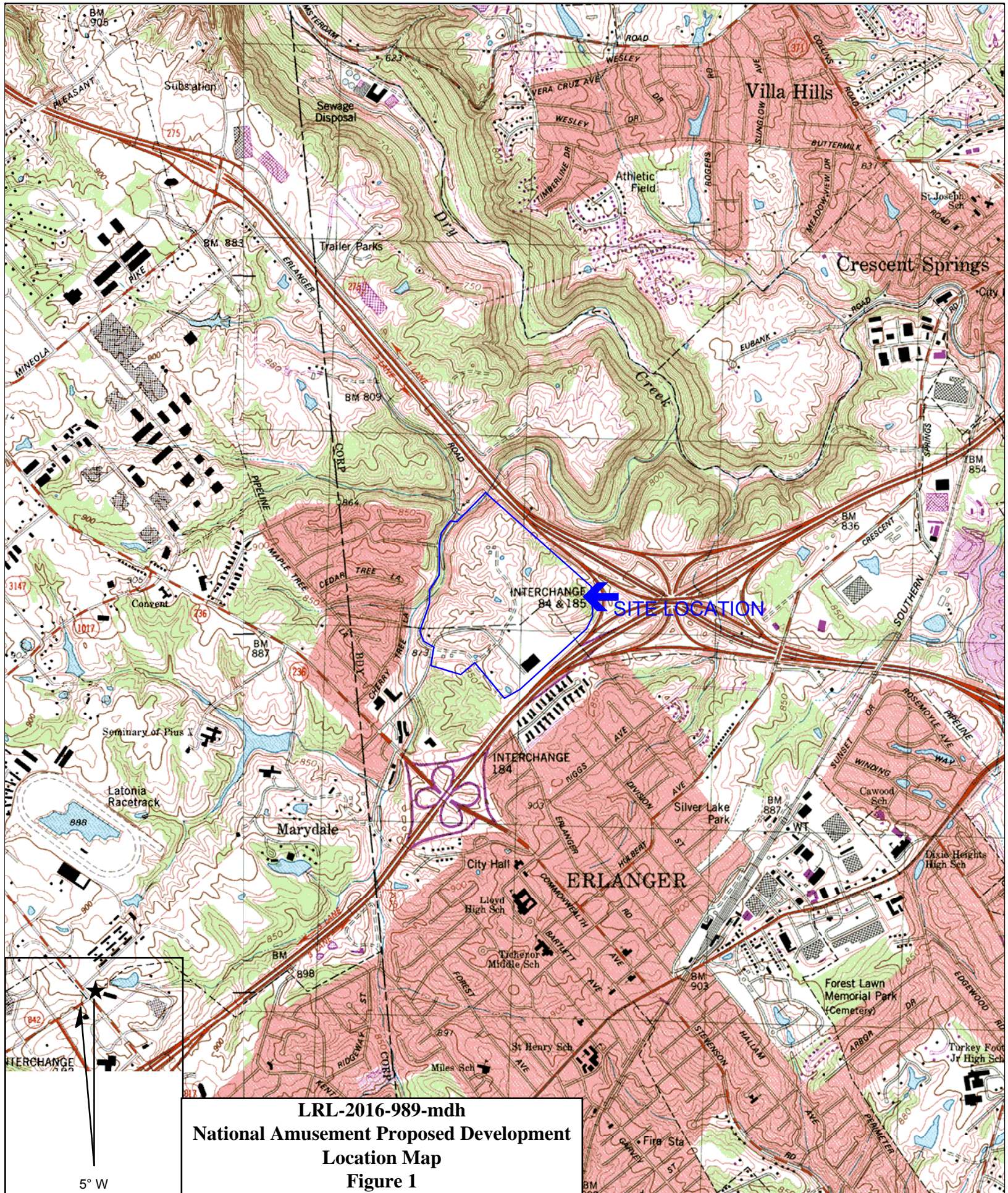
Example: LRL-2016-989-mdh (subject)

b) Provide your physical mailing address and telephone number.

c) Send your email to: [lrl.regulatorypubliccomment@usace.army.mil](mailto:lrl.regulatorypubliccomment@usace.army.mil).

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.





**LRL-2016-989-mdh**  
**National Amusement Proposed Development**  
**Location Map**  
**Figure 1**

Name: COVINGTON  
Date: 7/19/2016  
Scale: 1 inch equals 2000 feet

Location: 039° 02' 05.7" N 084° 36' 34.2" W





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**National Amusement Proposed Development**  
**Figure 2**

LEGEND	
	Site Boundary
Locations are approximate	

Source: Google Earth

**KILBANE**  
 Environmental, Inc.  
 6236A Centre Park Drive  
 Cincinnati, OH 45069

**FIGURE 2**  
**SITE VICINITY MAP**

National Amusements Erlanger Erlanger, Kenton County, KY		
KEI Project No: 22713(3)		
Prepared By	No.	Date
KNM	00	19 JULY 2016





Source: NKAPC Link-GIS

**KILBANE**  
Environmental, Inc.  
6236A Centre Park Drive  
Cincinnati, OH 45069

**FIGURE 3  
WETLAND AND STREAM LOCATIONS**

#### LEGEND

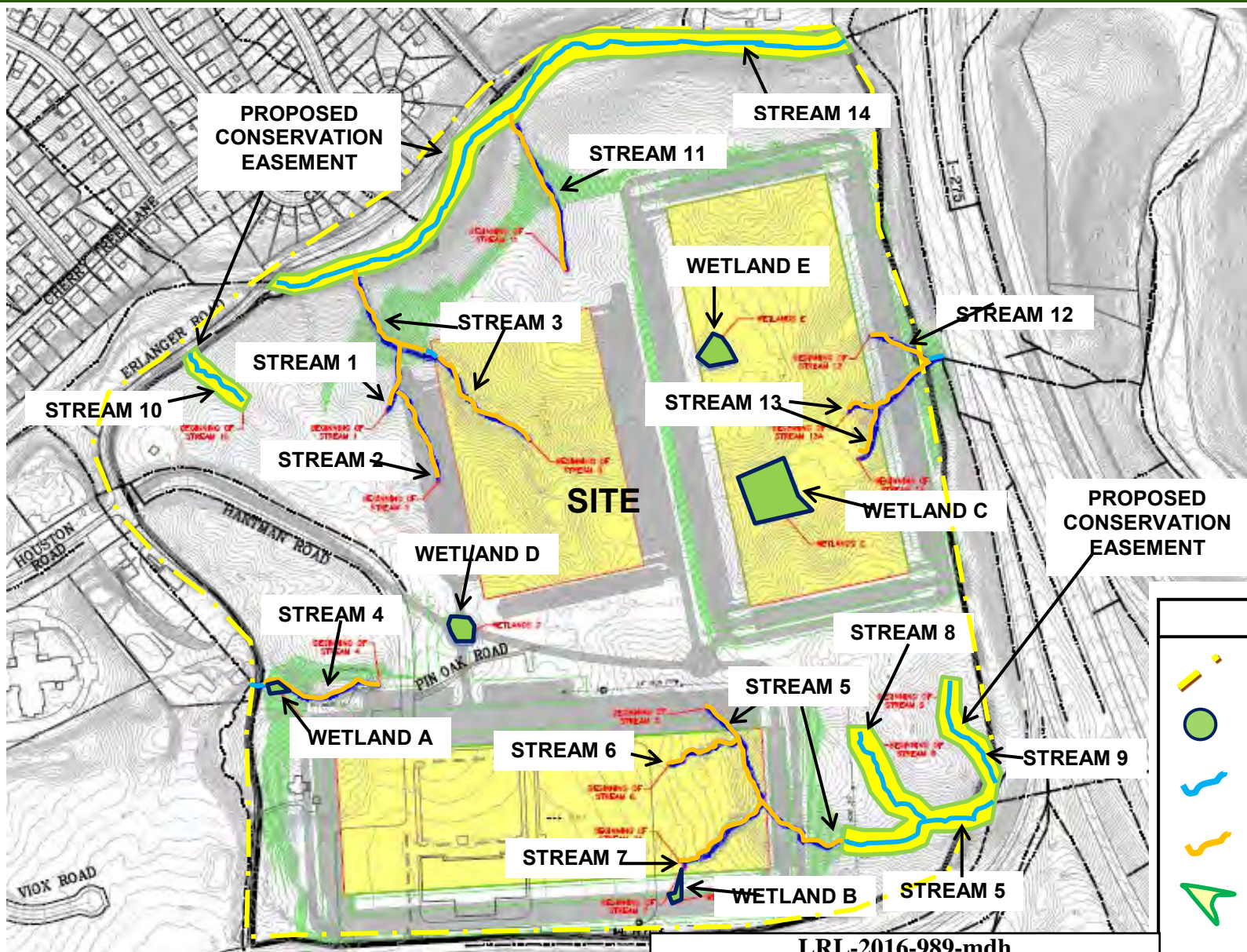
- Site Boundary
  - Streams Observed On-Site
  - Approx. Wetland Boundary
- Locations are approximate

National Amusements Property  
Erlanger, Kenton County, KY

KEI Project No.: 22713(3)

Prepared By	No.	Date
KNM	00	July 2016





LEGEND	
	Site Boundary
	Wetland Areas
	Un-Impacted Streams On-Site
	Streams to be Impacted
	Proposed Conservation Easement
Locations are approximate	

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National Amusement Proposed Development  
Figure 4

FIGURE 4  
SITE DEVELOPMENT PLAN

Source: Neyer



6236A Centre Park Drive  
Cincinnati, OH 45069



National Amusement Erlanger Erlanger, Kenton County, KY		
KEI Project No: 22713(3)		
Prepared By	No.	Date
KNM	00	AUG 2016